THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 21170 of 2007

Oral order:

The petitioner, namely Fishermen Co-operative Society, Mandamarri (hereinafter referred to as 'the Society'), represented by its President, has filed this writ petition seeking to declare the action of the respondents in causing hindrance to stock the fish seed in Mangalikunta Tank, Andugulapet village, which forms part of the petitioner, as illegal and arbitrary.

The petitioner-society has 99 members on its rolls. Its area of operation covers four tanks, namely Uracheruvu in Mandamarri village, Kunta in Sarangapalli village, Lothuvani Cheruvu in Chirrakunta village and Mangalikunta in Andugulapet village. Though two more Tanks, namely Ponnaram Tank and Lemur Tank, were included in the area of operation of the petitioner-society, the petitioner claims that there is no water in the said tanks and as such, no operations were undertaken in them. While so, on the representation dated 20.09.2006 made by one Sri. T. Lingaiah for formation of separate society, respondent No. 1 issued notice to the petitioner calling upon them to explain as to why Mangalikunta in Andagulapet village should not be deleted from the area of operation of the petitioner. The petitioner states that though they submitted their explanation, yet respondent No.1 addressed letter dated 10.09.2007 informing respondent No.2 that since proposal relating to deletion of Mangalikunta Tank in Andugulapet village, is under process, it would not be proper to allow the members of the petitioner-society to stock fish seed in the said tank. On the basis of the said letter of respondent No.1, it is the case of

the petitioner-society that respondent No.2 is not allowing them to stock fish seed in Mangalikunta Tank in Andagulapet village. Hence, they filed the present writ petition.

Respondent No.1 filed counter. The learned Assistant Government Pleader for Fisheries reiterating the counter-averments submitted that as of now respondent No.1 has not passed any orders deleting Mangalikunta Tank in Andagulapet village from the are of operation of petitioner-society. She however, submitted that to avoid law and order problems, respondent No.1 has advised respondent No.2 not to allow the members of petitioner-society to stock fish seed in Mangalikunta Tank in Andagulapet village as the proposals for deletion thereof and formation of new society, are under process.

The counsel for the impleaded respondents submitted that they intended to form a new society with Mangalikunta Tank in Andagulapet village as its area of operation, and if the members of the petitioner are allowed to stock fish seed and in the event respondent No.1 passes an order deleting the said Tank from the area of operation of petitioner-society by allowing the impleaded respondents to form a new society, then they will be put to irreparable loss and injury, and therefore, respondent No.1 has advised respondent No.2, not to allow the members of the petitioner-society to stock seed in Mangalikunta Tank in Andagulapet village, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Assistant Government Pleader for respondent Nos. 1 to 3 and the learned counsel for the impleaded respondents.

It is admitted by the learned Assistant Government Pleader for Fisheries as well as the learned counsel for the impleaded respondents that as on today, there is no order passed by respondent

No.1 deleting Mangalikunta Tank in Andagulapet village from the area of operation of the petitioner-society and allowing the impleaded respondents to form a new society with Mangalikunta Tank in Andagulapet village as its area of operation. As long as Mangalikunta Tank in Andagulapet village continues to be in the area of operation and control of petitioner-society, all the members of the petitioner-society, including the impleaded respondents, are entitled to stock fish seed and fish in the Tank, but certainly on the ground that the proposal for deletion of Mangalikunta Tank in Andagulapet village, from the area of operation of petitioner-society is under process, is no ground for the official respondents to restrain the members of the petitioner-society from stocking fish seed in the said Tank, and more so on the ground that such permission would evoke land and order problem. In that view of the matter, the letter dated 10.09.2007 addressed by respondent No.1 to respondent No.2 advising him that it is not advisable for the petitioner-society to take up stocking of fish seed in Mangalikunta Tank in Andagulapet village, being illegal and arbitrary, cannot be sustained and is liable to be set aside.

In the result the writ petition is allowed. The letter dated 10.09.2007 addressed by respondent No.1 to respondent No.2 is set aside. No costs.

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N.V. RAMANA, J.

Date: 14th December, 2007.
KSR